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should be justiciable only if justifying reprisal between independent nations. *Held*, that broad principles of state equality should control, and that the body of decisions on interstate controversies constitute interstate common law. *Kansas v. Colorado*, 206 U. S. 46. See NOTES, p. 132.

CONSTITUTIONAL LAW — SEPARATION OF POWERS — JUDICIAL RECOUNT AND RE-CANVASS OF BALLOTS. — A statute provided that upon petition by any candidate for a certain office the Supreme Court must summarily canvass the ballots cast. *Held*, that the statute imposes judicial duties on the courts and is therefore valid. *Metz v. Maddox*, 105 N. Y. Supp. 702 (App. Div.). See NOTES, p. 138.

CONSTITUTIONAL LAW — WHO CAN SET UP UNCONSTITUTIONALITY — ESTOPPEL THROUGH LAPSE OF TIME. — The plaintiff sought to assail an act of the legislature, passed thirteen years before, dividing the state into senatorial districts. *Held*, that it is too late to question the validity of the act. *Adams v. Bosworth*, 102 S. W. 861 (Ky.). See NOTES, p. 133.

CRIMINAL LAW — SENTENCE — FEDERAL COURTS' RIGHT TO IMPRISON TO ENFORCE FINE. — The defendant was convicted under a federal statute ordering punishment by a fine, but providing no penalty of imprisonment. *Held*, that the court has common law jurisdiction to decree that the defendant shall stand committed to jail until the fine be paid, or he be otherwise discharged according to law. *Ex parte Barclay*, 153 Fed. 669 (Circ. Ct., Dist. Me.).

A sentence which does not conform to the punishment provided by statute is void. *In re Pridgeon*, 57 Fed. 200. But at common law, a sentence of fine may provide that the defendant stand committed till his fine be paid. *Harris v. Commonwealth*, 23 Pick. (Mass.) 280. The theory allowing such imprisonment is that the fine alone is the penalty, whereas the imprisonment enforces its collection. *Ex parte Bryant*, 24 Fla. 278. The commitment being on this basis, the sentence in the principal case would not be void in a common-law court as exceeding the statute. But whether federal courts have common-law powers in this respect admits of doubt. The courts of the United States, as a general rule, have no common-law jurisdiction in criminal cases. *U. S. v. Lewis*, 36 Fed. 449. But they are authorized to adopt common-law procedure when the jurisdiction and powers given by United States laws do not provide adequate remedies. U. S. COMP. STAT. 1901, § 722. Such inadequacy did not exist in the principal case, since federal statutes provide for the collection of fines by execution against the defendant's property, as in civil cases. U. S. COMP. STAT. 1901, § 1041. The decree of imprisonment seems therefore unjustified as an exercise of common-law powers. A previous decision, however, supports such a sentence, although the court gave no reasons for its conclusion. *Ex parte Jackson*, 96 U. S. 727, 737.

DECEIT — NEGLIGENCE AS SUBSTITUTE FOR INTENTIONAL UNTRUTH — LIABILITY OF NATIONAL BANK DIRECTORS. — The defendant, a director of a national bank, participated in the report of the financial condition of the bank required by statute. The report was in fact false, and the plaintiff acted thereon and suffered damage. *Held*, that the defendant is liable only if he published the report with knowledge of its falsity. *Yates v. Jones Nat'l Bank*, 206 U. S. 158.

Apart from statute it would seem that liability would attach if there was no honest belief in the truth of the report. See *Derry v. Peek*, 14 App. Cas. 337. The National Bank Act requires the publication of a verified report, and provides that every director who knowingly participates in the violation of any provision of the act shall be liable. 3 U. S. COMP. STAT. 1901, §§ 5211, 5239. And the present case holds that this statute excludes common law liability for any violation of the duties expressly imposed thereby, and that *scienter* must be shown to maintain an action. The case is in conflict with several prior decisions. It has been held that a director is an insurer of the truth of his